



# Taxing Matters

## Season 2 Episode 11 | A Day in the life of a tax adviser with Jeremy Johnson

**Alexis** Hello, and welcome to Taxing Matters, your one-stop audio shop for all things tax brought to you by RPC. My name is Alexis Armitage and I will be your guide as we explore the sometimes hostile and ever-changing landscape that is the world of tax law and tax disputes. Taxing Matters brings you a roadmap to guide you and your business through this labyrinth.

In case any of you miss any crucial information - or just want some bedtime reading - there is a full transcript of this and, indeed, every episode of Taxing Matters on our website at [www.rpc.co.uk/taxingmatters](http://www.rpc.co.uk/taxingmatters).

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**Alexis** I am delighted to be joined today by Jeremy Johnson who is the managing director of "InTAX Limited" which is a company that specialises in tax investigations and tax enquiries. Prior to joining InTAX, six years ago, Jeremy worked in the tax disputes and investigations team at both PWC and Grant Thornton for a number of years and before that was an inspector of taxes at HMRC.

Today, Jeremy and I are going to discuss the life and career of a tax investigator. We are going to cover some of Jeremy's stand out cases over the years as well as discussing whether HMRC's approach has changed over time.

So, without further ado, welcome Jeremy and thank you for joining me today!

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**Jeremy** Hello, good morning Alexis it's good to be here!

**Alexis** I'm always interested in people's personal stories, so, before we begin, how did you end up in tax?

**Jeremy** By accident! Like many people, I think, who end up in tax. I didn't have a burning ambition, at the age of five, to become a tax advisor, certainly!

**Alexis** Did you not?

**Jeremy** No, I didn't surprisingly no!

I think my awareness of tax for many years was probably pretty limited. The start of my career in tax was HMRC and I actually joined HMRC's technical training program - effectively three years of exams - to become a, relatively senior, tax inspector. Before that I had been working in sales and account management and, I think, I just got bored of sales and account management and wanted to do something technical, to actually have some kind of technical skill that I could bring to bear to a situation and it just so happened that as I was having those thoughts that I wanted to do something different I saw that HMRC had graduate recruitments, went through the application and fortunately, or unfortunately, I was successful. So there I ended up.

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<b>Alexis</b>	<p>Yeah, I don't think any of us ever start thinking, "oh yes, tax!", I certainly didn't anyway. I think tax was probably the absolute bottom of my list of things that I could possibly end up in but, actually, I'm so glad I did because I think a lot of people think it's all maths - but it's definitely not and there are so many aspects to the job that are really enjoyable.</p> <p>So, what does the life of a tax advisor involve, what does your typical day look like?</p>
<b>Jeremy</b>	<p>It could be many things. Looking at today, I've been looking at the mixed membership legislation in relation to some technical points. I've got some work to do on an IR35 case this afternoon - IR35 cases continue to rumble on especially for people who are working in the media. I've probably got some further work to do on a code of practice 9 fraud enquiry later on, but a typical day usually involves at least one client conversation about, "what we need to do?", "what's happening?", "what HMRC have said", "what we need to do next?"</p> <p>Quite often a conversation with HMRC about the progress of a case or to discuss a specific point and - going back to what you said about tax actually being quite interesting - it could be a mix looking at a really technical point of legislation, or it could be looking at big sets of data to try and figure out what's actually happened in a business or trying to get a client, or HMRC, or both of them, to play nicely together to move a case forwards and that can involve explaining to a client why HMRC are doing what they're doing because sometimes you have to move your client, as well as trying to move HMRC, to get to a point where you can resolve the case.</p> <p>It's varied, anybody thinking about tax, they should go into it!</p>
<b>Alexis</b>	<p>It's never the same which is what keeps it interesting, really. What have been some of your stand out cases?</p>
<b>Jeremy</b>	<p>Obviously I was pre-warned of your questions so I thought of a few cases. Stand out for me means not necessarily the size or complexity, but some of the things where, afterwards, I thought, "...actually I've learned something" or, "that was an important thing to think about".</p> <p>The first case is actually a case from early in my career when I was a tax inspector, I was about a year into my training. I can't remember why the enquiry was open, but the enquiry was into a small used furniture shop. It was run by one person and occasionally his mum would help, but it was just one person who ran this business.</p> <p>During the correspondence I came to realise that even though there was just one person running this business he had two vans and I could not fathom why he could possibly have two vans, if his mother didn't do any of that work. So, I convinced myself that the only reason he had two vans is because he must have at least one off-record employee who was driving van number two. So, he must have off-record sales and cash that he's paying this off-record employee. I had a meeting with the client and his agent towards the end and I'd prepared myself that I was going to ask this question, whether he was going to collapse on the floor in a puddle of tears and admit everything to me. I asked him, "I don't understand why have you got two vans?" and he explained that he'd got one small van and one big van and the small van was when he was going round the back streets in Lancashire, behind back to back terraces - which are very narrow - picking bits and pieces up from houses which was much easier than the large van which was the one he took to auctions if he was picking up 20 or 30 sofas to sell in his shop - which was a perfectly reasonable answer! I was devastated at the time that I'd got this so completely wrong and he had this great answer and that was really the end of it.</p> <p>I don't think there was ever even an adjustment in that case. It made perfect sense but I'd built up a big case over the course of many months and I was clearly wrong, I was completely wrong!</p>
<b>Alexis</b>	<p>And so what do you think the key takeaway, for you, from that case at the junior end of your career?</p>
<b>Jeremy</b>	<p>The key takeaway was to recognise when you're making assumptions and there's nothing wrong with assumptions but recognise when you are making assumptions. Also recognise when, potentially, other people are making assumptions. Test those assumptions: Whatever conclusion I've come to on this along the way, which bits of my reasoning have been based on an assumption rather than something that I absolutely know. Think about that carefully and test that. I've had cases since then where I've looked at the paperwork and I've come to some kind of assumption which turns out to be incorrect but also where we're looking at a case and corresponding with HMRC if I see something in a case that looks odd or it looks wrong or it begs a</p>

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question of some kind, even if HMRC haven't asked a question about that thing that you've seen, quite often it's worthwhile explaining it because HMRC may well have come to a conclusion, or an assumption, about that so there's nothing wrong with pre-emptively saying, this thing looks strange but I'll explain to you why it's not wrong, here's there the reason that this thing looks strange, why there's a perfectly reasonable answer. It was a big lesson for me; fallibility, recognising when you're making assumptions and making sure to test them.

**Alexis** That's a really good point. If people are under the apprehension something is happening when it's not it can drive the litigation, or the case, in a certain direction that it might not otherwise have gone, that's a really good point. Did you mention a second case from your time at HMRC?

**Jeremy** The other case was actually from just about at the end of my time at HMRC. I was in specialist investigations which is now known as FIS, or Fraud Investigation Service, but that was a time when FIS used to litigate avoidance schemes as well to catch avoidance. I took over a case called Icebreaker which was a pretty large avoidance scheme. I think there are around 50 partnership across the years and maybe 500 plus members in those partnerships. I took over the investigation although a lot of the work had been done beforehand and then I worked with the solicitors office and counsel to take that to tribunal. I think it was a four week hearing in the end, so it was a pretty significant tribunal hearing. It was a huge case in terms of the numbers of people involved. It was big for me and it big for HMRC. I had policy people, technical people, solicitors office, three barristers, staff that were opening enquiries and then staff that were preparing all of the bundles for hearing. It took over my life for about 18 months. Ultimately HMRC were successful in that case, it went, after I left, the decision came out, went to the upper tribunal but in both instances HMRC effectively won their arguments and it was worth about £120m so it was large in terms of tax and, obviously, quiet some distance from a small second hand furniture shop - and it was a fascinating experience, technically in terms of the whole process of moving a case that big to tribunal, getting it through tribunal, working with all of those people.

**Alexis** And so what do you think you learned in particular from that case?

**Jeremy** The big things I learned from that were "plan" and "ask. If you're dealing with something that big you have to plan. There are lots of people involved, there are tribunal deadlines - you're going to have to work back from a tribunal deadline to the thing that needs to be prepared - to who is going to need to input into the thing that needs to be prepared?, "are there things that need to be done before that?", "do the technical people need to sign off finally."

It was a big lesson, a lesson I had to learn pretty quickly in terms of being quite detailed in relation to planning because, with the volume of work, without planning you would be overwhelmed - you'd be missing deadlines, people wouldn't know what they needed to do on time. A lot of my involvement quickly moved from technical issues into moving the whole case forwards and making sure that it moved.

That was "plan" and also "ask" was the other thing. There's possibly a temptation when you're leading something like that to think that you know or you should know the answers to all aspects of it. None of us is an expert in everything, it's perfectly reasonable and, in fact, I would say it's preferable to ask people to input, either for technical advice, or - you know - just general points Don't be afraid to ask, there's somebody whose opinion that you value or somebody who is particularly, in whatever case it is, a technical specialist in a certain area. Ask, get those inputs. Many firms carry it over or operate in that way, but certainly I've carried it over since then. On lots of cases we work in within our firm we ask colleagues what do you think of this? Is my argument good? Is it not good? What do you think their argument really is? What do you think HMRC's likely to say? Get that feedback because it's going to help you be in a much better place whenever you're going to come to argue your case. You've thought about it better. so ask. Those are the big lessons I learned there.

**Alexis** Yeah, brilliant, thank you, that's so useful!

When you said it took over your life for 18 months, were you working on any other cases, did you also have to manage all of that?

**Jeremy** I had a couple of other cases that I was working on which were more traditional fraud investigation service type cases. So, I had a couple of those but compared to others I didn't have a large book of cases because - just the volume of paperwork, I think there was 30 or 40 large ring binders of documents, that was the bundle to go to tribunal.

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**Alexis** Absolutely it can certainly take over!

Moving now on to your time on the other side of the fence, what have been your most stand out cases when acting for the taxpayer against HMRC?

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**Jeremy** There have been a couple of cases that I think that I've learnt some valuable lessons from.

One of them was my first experience of ADR on this side of the fence. It's a case that I took over when I joined this firm in fact, back in 2009, I think it was, the police raided a firm that had safety deposit boxes and there were a number of people who have safety deposit boxes which had cash and jewellery and, even if there was any of criminal investigation. The police passed that data on to HMRC and HMRC opened up a number of enquiries into a number of people on the back of that and that's what had happened to my client.

My client sold food predominantly at festivals and the safety deposit box was found with an amount of cash - not a massive amount - but an amount of cash. HMRC opened an enquiry, the client didn't have perfect paperwork but HMRC decided, during the course of their enquiry, that they had been suppressing sales. HMRC came up with a re-computation of what their turnover and profit should have been and, initially, HMRC wanted about £1m in direct tax and VAT. In correspondence HMRC had got to the position of saying that it should be £300,000 in tax and VAT. We went to ADR, there wasn't much prime documentation to argue about, most of the argument was effectively business economics. What conceivably did this business look like given the questions that were raised? I spent forever looking at the industry, looking at GPRs, trying to find pictures of my client on social media so I could evidence their price lists contemporaneously.

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**Alexis** The dangers of social media, ha?

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**Jeremy** The dangers! I mean - fortunately in that case, social media demonstrated that what my client said they sold items for give or take some small changes because of timing differences - three year old photo - what they said was the case, I could show contemporaneously, at least in terms of the selling price, that that was it, that that was the price.

There were other things to argue. I spent several days preparing for the ADR as well as spending time with my client as well and making sure that we understood HMRC's general arguments but also that we had a raft of evidence to support the returns that my client has sent in. We went to the ADR. In that particular HMRC was really not prepared for ADR - usually they are. We ended up settling for a small VAT adjustment to account for some small changes to zero at standard rated sales; settled for about £15,000 which, from a starting position of £1m, was a great result!

That was my first experience of ADR. I was probably entering that experience of ADR in a slightly panicked mode in terms of, "what do I do, how do I do it?", but it was a really good lesson in being prepared. Being prepared. What is ADR? It's not a chat, it's not just a chat! The purpose of ADR is you've got a day together to try and either agree some points, or conclude the whole thing. Possibly, narrow down the points that you're discussing and if you're going to do that you need to be prepared. You've got to assume that they're going to prepare as much as you are.

What I've also found useful and I did it in that case and I've done it in cases since then, going back to the ask, is debating the case yourself with your colleagues beforehand. Trying to tear as many holes in your own case as possible so that you are prepared for that, if that what comes at you during that hearing. You can't pre-empt everything, but to as much as you can look at that.

Also, if you're dealing with a case where there's a range of outcomes. If, for example, HMRC say, "well we're going to increase your turnover by 10%", for a number of cases we've built a model, where we can plug in wherever we've got to in the ADR and quickly say to our client, "never mind 10%, 5%, 3%, as far as the client is concerned, well what does that mean, what's the answer to me in terms of the cheque I have to write to HMRC?" So, making sure that you know that the technical points or the percentage point that you are arguing how does that translate into pounds and pence at the end of the day because, otherwise, if you can't do that your client may not be in a position to say, "that's the least worst answer, I think I can live with" or, "the best answer I can get".

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**Alexis** Absolutely! and is there a final case you wanted to mention?

**Jeremy** Yeah another case which I think taught me the value of understanding how people communicate, or how people best communicate.

I dealt with a case: the client bought and sold vehicles, they had been in a protracted battle with HMRC about whether the profits were understated. There were all sorts of issues in terms of the administration, there had been a tribunal hearing, the client had tried to represent themselves previously, there were some late appeals, there were other years that were under appeal. It was a case, when I first looked at the paperwork and I looked at HMRC's notes of meetings and various things like that and I thought, "how are we ever going to move this forward, this is impossible!" but when I spent some time speaking to my client it took quite a long time for our client to understand why HMRC had done the things it had done, for our client to understand the things that we needed to do in order to move that position and then also to do the work to convince HMRC that they needed to move. Managed to conclude the case with HMRC removing all the adjustments that it had made over a ten year period. Very fortunately settling for nil!

**Alexis** That's a great result, isn't it? yeah!

**Jeremy** Good result for the client!

**Alexis** I bet the client was happy!

**Jeremy** Yes! They were happy - they were definitely happy. One of the difficulties was a really combative relationship that the client had had with HMRC.

The client disclosed to me early on and in fact it was noted in the correspondence that they were pretty severely dyslexic. In fact, as part of the case they ended up getting a formal diagnosis because HMRC had not really believed that that was the case and there was a couple of impacts that that had. One was, their understanding of written correspondence, both from the tribunal and HMRC but also the way that they reacted when they had their diagnosis. They were diagnosed both as dyslexic and also having ADHD.

Some of the ways that they reacted – which, when you look at them cold - you think, "well, why would you behave like that?", "why would you do that?", "why would you react in that way?". You could understand the genesis of those reactions and how my client's perceptions were coloured by these issues and by HMRC not really believing them, I think, and so, I fairly quickly discovered that on email was not going to be the best way to communicate with my client to understand his position and tell him what we are doing, but face to face was by far and away the best – really, the only way that we should be communicating because that's what made the most sense for him.

Another lesson on assumptions: if you read the file cold, you would come away with one impression whereas when you actually spent time with your client and find out what has happened and their perception and why they've reacted in the ways they have, you come to another view.

You always need to think about how the message is going to be received, how are you going to communicate. Quite often, as tax advisors, you've had to give complicated pieces of advice about what next and why and thinking about "how is my client going to understand what I'm trying to say?", "who is my client, how do they view the world", "what are the important points and how do I make sure that I'm doing whatever I can so that they understand their position.

**Alexis** Yeah!

**Jeremy** In the best possible way.

**Alexis** Yeah definitely! It's about tailoring your approach isn't it - trying to make the complex simple. As simple as it can be!

Obviously, you've been in this game for a long time. To what extent do you think HMRC's approach has changed since the start of your career compared to now?

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**Jeremy**

I think some areas are similar but some aspects of how HMRC works have changed. If I were to think about standard code of practice NINE case there are some small differences nowadays in some of the nuance. How you interact with HMRC, what's going to happen, every case itself has it's own facts but the basic process and what you're going to do is pretty similar and it's a fairly well trodden path. Usually there's a good level of communication with HMRC.

What I perceive has changed is HMRC's increased use of large volume campaigns in areas that are technically quite difficult and I would say that in some cases the use of a large campaign team of people who haven't had years and years of technical training and are potentially fairly junior, that can cause issues for example, IR35, we've had cases that have had four changes of case workers which has created delays, case workers have got things wrong, basic points of legislation wrong which we would argue that a more experienced person probably wouldn't have done.

If you look at the R&D claim - the big campaign that HMRC's got into R&D at the moment. I can understand why HMRC is doing that but you've got a large volume of cases being dealt with by people who aren't even named. It's an anonymous mailbox and then it's picked up by the next person. You know HMRC has got to do those kinds of things somehow but in my perception that's caused a lot of problems where HMRC have got things technically wrong - approaching the subject from the wrong direction.

Obviously if HMRC discovers an issue and it realises that's a big issue, it's got to try and target a lot of people at once, it's got to do it in some way, but maybe it's the estate's reorganisation and the fewer offices and they've lost more experienced people over the years has contributed to that - but the large scale campaigns, I think for many people, can create some pain, some really difficulties.

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**Alexis**

I definitely agree with you that there doesn't seem to be as much consistency anymore in terms of, you might have had one case worker on a case all the way through.

As you said you've got a case where there's four of them, or there's changes or in some instances you don't have any case worker, a "no-named" individual and it's quite difficult because you don't have any accountability, you don't have anyone to go back to. It's quite okay if it's a straightforward matter, that probably isn't a problem but if you've got something you need to discuss with them and you can't get hold of anyone it definitely creates an added layer of difficulty.

So do you have any top tips to finish with of how to deal with HMRC - for anybody out there having a difficult day with HMRC at the moment? It seems your overarching thing is prepare, ask and have a good line of communication if you can with them. Is there anything else?

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**Jeremy**

Yeah, all of those things! Each case is different. Banging the table and shouting is not my preferred style or my starting point, although, occasionally, you do need to bang the table and complain if things have gone wrong - there's a place for complaining if things have really got awful but, above and beyond the things we've talked about before, I would say listen or understand.

If you're looking at what HMRC's arguing it's easy to have a knee-jerk reaction and, "oh, God they're wrong this is rubbish", "why are they saying that?" and spiral into all the things that you're going to say back but it's worthwhile spending a bit of time and really trying to understand what HMRC is saying because if we don't really understand what they're saying and arguing it's like you and HMRC playing tennis, but on two adjacent tennis courts; they've got their arguments over here and your arguments - as well conceived as you believe they are - are not actually addressing the points that they're raising.

If you have an opportunity to have a meeting with HMRC and just discuss, understand, can I just understand what you're saying, this is the issue, this is the risk, this is why you're saying it's a problem, just so that you've got that understanding because then you can focus on the arguments that really speak to whatever it is that HMRC is saying and listen to your clients and understand your clients as well. Hopefully that goes without saying for professional advisers, hopefully it does but sometimes there are nuances and it can take a bit of time to get that out of a client!

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**Alexis**

Right, well, thank you so much Jeremy! We have certainly learned a great deal about the life of a tax advisor today, unfortunately that's all we've got time for in this month's episode!

Thank you again to Jeremy for today's podcast. You can contact Jeremy at [jeremy.johnson@intaxltd.com](mailto:jeremy.johnson@intaxltd.com).

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